

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TOMMY L. FENLEY, individually and on
behalf of all persons similarly situated,

Plaintiff,

v.

APPLIED CONSULTANTS, INC.,

Defendant

ELECTRONICALLY FILED

CA No.: 2:15-cv-00259-MRH

~~PROPOSED~~ ORDER GRANTING
FINAL APPROVAL OF THE SETTLEMENT AGREEMENT

AND NOW, this 16th day of June, 2016, upon consideration of Plaintiff's

Unopposed Motion for Final Approval of the Settlement Agreement, the Court grants the Motion and ORDERS as follows:

1. The Parties' Settlement Agreement is finally approved as fair, reasonable and adequate; it is a fair and reasonable resolution of a *bona fide* dispute under the Fair Labor Standards Act (29 U.S.C. §§201 *et seq.*);

2. Plaintiff's FLSA collective action pursuant to 29 U.S.C. § 216(b) is approved coterminous with the following Settlement Class, which is certified pursuant to FED. R. CIV. P. 23:

all employees who have worked for Applied in a job paid on a daily rate basis in any workweeks between February 25, 2012 and the date of preliminary approval, except for individuals who held only jobs with titles of "Project Manager" or containing the word "Chief"; "Administrative"; or "Office," except those individuals who have timely requested exclusion from the Settlement Agreement (the "Settlement Class" or "Class").

3. Plaintiff Tommy Fenley is approved as the Representative of the Settlement Class.

4. The proposed service award in the amount of \$10,000 to Tommy L. Fenley and \$5,000 each to Opt-in Plaintiffs Jeff Fenley and Wayne Applegate for their service to the Class and in exchange for their additional released claims in favor of Defendant is approved;

5. Berger & Montague, P.C. is approved as Class Counsel for the Settlement Class;

6. Plaintiff's Unopposed Motion for Approval of Attorneys' Fees and Costs is granted, and payment of attorneys' fees pursuant to the terms of the Settlement Agreement and costs in the amount of \$20,072.46 are approved;

7. Angeion, Inc. is approved as the Settlement Administrator and the costs of claims administration not to exceed \$40,000.00 are approved;

8. The sole objection -- submitted by Class Member Donnie L. Mize -- is overruled. Mr. Mize's letter confirms that he wishes to opt out and that request is granted; he therefore lacks standing to object. In addition, his objection does not suggest that the settlement is inadequate, unreasonable, or unfair to Plaintiff or other Class Members, but only that he "was paid for all overtime while employed by Applied Consultants, Inc."

9. The Parties have fully complied with the notice provisions of the Class Action Fairness Act (28 U.S.C. § 1715). Notices were timely sent to the U.S. Attorney General and to the Attorneys General of forty (40) states; none have elected to comment on or object to this settlement.

10. The Court hereby enters final judgment in this case and dismisses it with prejudice in accordance with the terms of the Settlement Agreement. There being no reason to delay entry of this Final Judgment, the Clerk of the Court is ordered to enter this Final Judgment forthwith pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

11. Without affecting the finality of this Final Judgment in any way, the Court reserves exclusive and continuing jurisdiction over this action, the named Plaintiff, the certified Settlement Class, and Defendant for purposes of supervising the implementation and enforcement of the Settlement Agreement, this Order, and all settlement administration matters.

IT IS SO ORDERED.

Signed on June 16, 2016.

A handwritten signature in black ink, appearing to read 'Mark R. Hornak', written over a horizontal line.

Honorable Mark R. Hornak
United States District Court